



Cost Estimate for Bill C-18: Online News Act



The Parliamentary Budget Officer (PBO) supports Parliament by providing economic and financial analysis for the purposes of raising the quality of parliamentary debate and promoting greater budget transparency and accountability.

This report presents the PBO's response to the request from a Member of Parliament to provide an independent analysis of the financial cost for implementing Bill C-18, *An Act respecting online communication platforms that make news content available to persons in Canada*.

Lead Analyst:

Rolande Kpekou Tossou, Analyst

This report was prepared under the direction of:

Xiaoyi Yan, Director, Budgetary Analysis

Marie-Eve Hamel Laberge, Martine Perreault and Rémy Vanherweghem assisted with the preparation of the report for publication.

For further information, please contact pbo-dpb@parl.gc.ca

Yves Giroux

Parliamentary Budget Officer

RP-2223-017-M_e

© Office of the Parliamentary Budget Officer, Ottawa, Canada, 2022

Table of Contents

Executive Summary	3
1. Introduction	4
2. Costing Assumptions	5
3. Administrative Costs	6
3.1 Departmental Spending Plans	6
3.2 Independent Estimate	6
4. Private Sector Cost	8
4.1 Transaction and Compliance Costs	8
4.2 Tax Revenue Implication	9
Notes	10

Executive Summary

A parliamentarian requested that the PBO estimate the cost of implementing Bill C-18: *An Act respecting online communications platforms that make news content available to persons in Canada*. Bill C-18 regulates digital platforms by establishing a new legislative and regulatory regime to require these platforms that generate revenue from the publication of news content to share a portion of their revenues with Canadian news businesses.

The financial costs of the Bill to the federal government arise mainly from legislative development by Canadian Heritage and administration by the Canadian Radio-Television and Telecommunications Commission (CRTC). Private sector, essentially news businesses, incur transaction and compliance costs under the Bill.

We expect the total public cost to develop and implement Bill C-18 to be an average of \$5.6 million per year over 5 years for Canadian Heritage and the CRTC. Budget 2022 allocated \$8.5 million over two years, starting in 2022-23, to the CRTC to support the implementation of the Bill. In response to PBO inquiries, the CRTC and Canadian Heritage stated that “the funding in Budget 2022 would not be ongoing, as the CRTC’s administration of the regime would initiate a cost recovery process”.

We expect news businesses to receive a total compensation around \$329.2 million per annum from digital platforms and spend about \$20.8 million in transaction and compliance costs for negotiating their first deals under the Bill.

Summary Table 1 Summary of Expected Administrative Costs

Organization	Activity	Cost (\$ million)				
		Year 1	Year 2	Year 3	Year 4	Year 5
Canadian Heritage	Developing legislation and regulatory proposals	2.1	2.1	2.2	2.2	2.3
CRTC	Administering the implementation	3.2	3.3	3.4	3.5	3.5
	Total	5.3	5.5	5.6	5.7	5.8

1. Introduction

This report estimates the financial cost of *Bill C-18: An Act respecting online communication platforms that make news content available to persons in Canada* (short title: *Online News Act*), at the request of a Member of Parliament.

The *Online News Act* would apply to digital platforms that allow news content to be accessed and shared on their platforms and have a significant bargaining power imbalance with news businesses. It would require digital platforms to fairly compensate news businesses through voluntarily negotiated deals or through a mandatory bargaining process subject to a final offer arbitration when deals cannot be reached. The potential beneficiaries include:

- newspapers and news magazines, as well as online news companies already designated as Qualified Canadian Journalism Organizations (QCJO);
- private and public broadcasters who produce and publish original online news content; and,
- non-Canadian news organizations that meet the criteria.¹

The *Online News Act* has two types of financial implications covered in this report, specifically:

1. Administrative costs: the proposed legislation will create new ongoing administrative obligations for the CRTC and Canadian Heritage.
2. Compliance and transaction costs for the private sector: the new regulations will give rise to regulatory compliance costs for businesses as well as costs to negotiate and enforce agreements. This will in turn have fiscal consequence for the federal government.

In this report, PBO presents an estimation of the total administrative cost of Bill C-18. It also addresses transaction and compliance costs that will be incurred by news businesses, as well as the expected annual payment from digital platforms.

2. Costing Assumptions

The financial costs of the Bill to the federal government arise mainly from legislative developments by Canadian Heritage and administration by the CRTC. Many important details on specific activities the departments will carry out to implement the Bill will be established by regulation.

Our cost estimate is based on the following assumptions, which were made from information received from the federal organizations, consultations with Canadian news businesses and based on Australia's experience with similar legislation:²

- CRTC: The total number of Full Time Employees (FTEs) that the CRTC will allocate to the implementation of the Bill is based on its current alternative dispute resolution regime, adjusted to account for other CRTC responsibilities under the Bill.
- Digital platforms: while the Bill does not identify specific digital platforms to which the Act will apply, it sets out factors that would be applied in determining whether there exists a bargaining power imbalance. Google and Meta are deemed as having such bargaining power because they are the largest entities that have significant market dominance in their markets.
- Eligible news businesses: Our analysis includes news businesses already qualified as QCJO (corporations and ownership of newspapers, news magazines, online news companies), and public and private broadcasters. Broadcasters are treated as ownership groups, not at the individual station level. By doing so, we assume that each ownership group would have at least one outlet that produces news content.
- Mandatory bargaining and arbitration: to minimize transaction and compliance costs, digital platforms will voluntarily conclude commercial deals with most of the Canadian news businesses outside the legislative framework. This will lead to a few news businesses, essentially small ones, being registered with the CRTC to pursue a mandatory bargaining process. Any related fees (arbitrators fees, bargaining fees) will be equally apportioned between the two parties.
- Compensation amount: we assume that the compensation from digital platforms will cover 30 per cent of the cost of creating news content by news businesses.
- Transaction and compliance costs: they are estimated separately for small, medium and large businesses.

3. Administrative Costs

Two federal organizations are involved in the development and the implementation of Bill C-18: Canadian Heritage and CRTC.

This section summarizes new activities that will be undertaken under the Bill by each of these two organizations and presents an independent estimate of the cost of these activities.

3.1 Departmental Spending Plans

The role of Canadian Heritage consists of developing legislative and regulatory proposals, engaging with stakeholders, and monitoring and providing advice on the legislative regime.

CRTC's new responsibilities will include: drafting a Code of Conduct to guide negotiations; determining which news businesses are eligible to participate; maintaining a list of digital platforms to which the Act applies; determining when a digital platform may be exempt from the regime because the voluntary negotiated agreements satisfy the statutory criteria; supporting the arbitration process; receiving complaints about various matters related to the framework; applying administrative monetary penalties for non-compliance; and hiring an external auditor to produce an annual report on the impact of the legislation. The CRTC would also have the power to draft regulations to govern various aspects of the operation of the Act.³

Budget 2022 proposed to provide \$8.5 million over two years, starting in 2022-23, to help the CRTC establish a new legislative and regulatory framework for the Bill if it becomes law. In response to PBO inquiries, CRTC and Canadian Heritage provided some information on their respective legislative responsibilities.

3.2 Independent Estimate

The PBO estimates that it will cost on average \$2.2 million per year over five years to Canadian Heritage for its new role under the *Online News Act*.

The number of FTEs necessary to undertake new activities under the Bill is provided by Canadian Heritage. PBO then used the departmental average operating spending by FTE to estimate the total cost.

We estimate the cost of implementing Bill C-18 by the CRTC to be, on average, \$3.4 million per year over 5 years.

As above, this estimation is based on the number of FTEs that will be devoted to the Bill on an ongoing basis and the average operating spending per FTE. The CRTC provided limited detail regarding the specific tasks it plans to undertake and its anticipated resource requirements for those tasks. However, the CRTC shared with the PBO that it does administer an alternative dispute resolution regime under the *Broadcasting Act* and the *Telecommunications Act*. Based on the number of FTEs currently dedicated to this regime, PBO estimated the number of FTEs that would be allocated to the implementation of the *Online News Act*. The total cost also includes an estimate of the cost of hiring an external auditor to produce an annual report.⁴ Our estimation does not include any cost recovery by the CRTC.⁵

4. Private Sector Cost

News businesses incur the costs of negotiating deals with digital platforms as well as the costs of complying with the legislation.

4.1 Transaction and Compliance Costs

News businesses considered in our analysis include corporations and partnerships already qualified as QCJO as well as public and private broadcasters' ownership groups. We assume that the annual payments to the news businesses will represent 30 per cent of the cost of content creation.⁶ For broadcasters, the cost of content creation is approximated by Canadian Programming Expenditure (CPE) in news, and for QCJOs, it is estimated based on our consultation with news businesses.

The PBO estimates that the *Online News Act* would provide about \$329.2 million per annum to news businesses across Canada. It also estimates that news businesses would spend about \$20.8 million in transaction and compliance costs to conclude their first deals. It would be more expensive for smaller businesses to negotiate and comply with the legislation because most would need to hire external expertise, while for large companies, internal capacity likely already exists.

Transaction and compliance costs are estimated separately for small, medium, and large businesses. We assume that medium and large businesses will all be able to conclude voluntary commercial agreements with digital platforms outside the legislation framework, and only a small proportion of small businesses will initiate a mandatory bargaining process. We assume that small, medium, and large news businesses will spend different fractions of their total compensation on transaction and compliance costs. The estimation also includes arbitration fees for small businesses that would potentially pursue a mandatory bargaining process with the CRTC. This adjustment includes arbitrators' fees and the administrative cost of overseeing a bargaining case.^{7,8} We also adjust for other additional costs that smaller businesses may incur given the fact that they would probably conclude their deals after the larger ones.⁹

4.2 Tax Revenue Implication

It is unclear to what extent these additional revenues to the industry will impact federal tax revenues. While there will be an increase in costs for communications platforms and revenues for news businesses, PBO is unable to project the behavioural response of these firms. For example, the increased revenues for news businesses may result in a commensurate increase in content creation spending, resulting in no net overall change in corporate profits. Alternatively, the owners of news businesses may simply take the additional profits.¹⁰

Notes

1. Businesses that are not Canadian owned but have a newsroom presence in Canada.
2. The PBO had discussions with Rod Sims, the Former Australian Competition and Consumer Commission (ACCC) Chair who was one of the architects of the Australia's News Media Bargaining Code. His report can be found at https://jinstitute.org/wp-content/uploads/2022/05/Rod-Sims_News-Bargaining-Code_2022.pdf.

We also had discussions with the Australian Communication and Media Authority (ACMA), especially the News Media Bargaining Section, that provided very useful details on how the legislation is being implemented in Australia
https://obpr.pmc.gov.au/sites/default/files/posts/2020/12/42478_-_news_media_and_digital_platforms_mandatory_bargaining_code_supplementary_analysis.pdf.
3. See https://www.justice.gc.ca/eng/csj-sjc/pl/charte-charte/c18_1.html.
4. Under Bill C-18, the CRTC will cause an independent auditor to prepare an annual auditor's report in respect of the impact of this Act on the Canadian digital news marketplace. Our cost estimate of hiring an external auditor is based on the cost of a similar program provided by Public Services and Procurement Canada.
5. The PBO uses its inflation forecasts in the projection of the total administrative cost
6. This assumption is based on available information.
7. To estimate arbitrators' fees, we use a list of arbitrators provided by the Canadian Transportation Agency (CTA) with their daily rate and the average rate. We assume an average duration of 15 days for the arbitration phase.
8. Our estimation of administrative fees for overseeing a bargaining process is based on the resources required by the CTA to oversee a dispute resolution case through bargaining, mediation, and final offer arbitration.
9. We heard from our consultation that some large companies have already concluded deals with digital platforms while most of the small businesses have not. Small businesses would need to offer competitive salary to retain their journalists, thereby incurring additional costs.
10. See Bill C-18: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-18/first-reading>.